

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: TROY DAVID ARMSTRONG
AND MICHAEL STEVEN FAUNCE

Application No. 09/456,211



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on March 19, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

An Examiner's Answer (Paper No. 10) was mailed August 22, 2003. The Examiner's Answer indicated on page 3, item (7)

Grouping of Claims:

The rejection of a first group of claims 1-2, 9-16 and 20-29, and a second group of claims 3-8 and 17-19, stand or fall together because appellant's brief does not give reasons in support of the statement that the claims do not stand or fall together as required. See 37 CFR 1.192(c)(7).

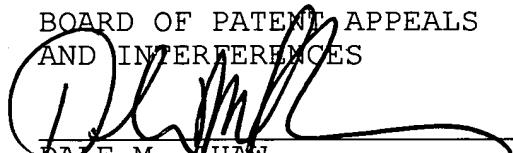
Appellant's considered the Examiner's Answer (Item 7) as a notice of non-compliance under 37 CFR § 1.192(d) and filed an Amended Appeal Brief, dated September 8, 2003 (Paper No. 11). However, it is not clear from the record that the *Amended Appeal Brief* has been considered and/or acknowledged by the examiner.

Accordingly, it is

ORDERED that the application is returned to the examiner to:

- 1) acknowledge receipt and consideration of the Amended Appeal Brief dated September 8, 2003 (Paper No. 11) via an official communication to the appellant; and
- 2) for such further action as appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

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